

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

-----  
Ellen S. Ewald, )  
 ) File No. 11-cv-2116  
 ) (SRN/SER)  
Plaintiff, )  
 )  
vs. ) Saint Paul, Minnesota  
 ) August 24, 2012  
Royal Norwegian Embassy, ) 10:30 a.m.  
 )  
Defendant. )  
-----

BEFORE THE HONORABLE STEVEN E. RAU  
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE  
**(MOTIONS HEARING)**

APPEARANCES

For the Plaintiff: ENGELMEIER & UMANAH PA  
SHEILA A. ENGELMEIER, ESQ.  
12 South Sixth Street  
Suite 1230  
Minneapolis, Minnesota 55402

For the Defendant: FAEGRE BAKER DANIELS LLP  
DANIEL G. WILCZEK, ESQ.  
SEAN R. SOMERMEYER, ESQ.  
90 South Seventh Street  
Suite 2200  
Minneapolis, Minnesota  
55402-3901

Court Reporter: CARLA R. BEBAULT, RMR, CRR, FCRR  
316 North Robert Street  
Suite 146 U.S. Courthouse  
Saint Paul, Minnesota 55101

Proceedings recorded by mechanical stenography;  
transcript produced by computer.

I N D E XELISABETH WEMBERGPAGE

Examination by The Court

5

Examination by Mr. Wilczek

8

Examination by Ms. Engelmeier

15

Re-examination by Mr. Wilczek

23

EXHIBITSREC'D

**P R O C E E D I N G S**

**IN OPEN COURT**

THE COURT: We're here this morning on the matter of Ewald versus the Royal Norwegian Embassy, case number 11-cv-2116. Would counsel note their appearances for the record.

MR. WILCZEK: Dan Wilczek and Sean Somermeyer for the Embassy, your Honor.

THE COURT: Thank you, Mr. Wilczek.

MS. ENGELMEIER: And Sheila Engelmeier for Ms. Ewald.

THE COURT: Thank you, Ms. Engelmeier.

We're here this morning on an Order to Show Cause. And before we proceed any further, I'm going to lay out what in the Court's view is what has occurred to date in this case, and then ask counsel if I've properly recited what's occurred.

I go back to July 1st of 2011 and on July 1st of 2011 the Summons and Complaint was served on Mr. Wilczek who is a partner at Faegre Baker and Daniels. He is here today as counsel for the Royal Norwegian Embassy. On July 1st, 2011, Mr. Wilczek accepted service on behalf of Defendant Gary Gandrud, who is affiliated with the Embassy but also is a former partner at Faegre, Baker and Daniels. His position

1 is unclear to me at this point and it's immaterial. The  
2 Embassy did not authorize Mr. Wilczek at that time to  
3 accept service of process.

4 Shortly thereafter, Mr. Gandrud made a Motion to  
5 Dismiss. There was a hearing on the Motion to Dismiss in  
6 December.

7 On January 9th, 2012, Mr. Wilczek, as  
8 Mr. Gandrud's counsel, represents to the Court in a brief  
9 that the Embassy has authorized him to accept service of  
10 process on its behalf; and he then notified Ms. Engelmeier  
11 and perhaps Mr. Marshall.

12 The Court granted Mr. Gandrud's Motion to Dismiss  
13 whereupon the Embassy on April 3rd made a second Motion to  
14 Dismiss. At the hearing on that Motion to Dismiss, May  
15 15th, Judge Nelson denied the motion from the bench and  
16 directed the parties to mediate with me within 90 days.

17 On May 25th a Notice of Settlement Conference was  
18 sent out scheduling a settlement conference on July 6th. On  
19 July 6th a hearing was held at the end of the day wherein  
20 the Court declared impasse; and on July 13th the Court  
21 issued an Order to Show Cause scheduling a hearing on August  
22 13th. That hearing on August 13th was postponed until today  
23 to accommodate Ms. Wemberg's vacation schedule because in  
24 the Order to Show Cause I directed her to appear here.

25 Ms. Engelmeier, as far as you're concerned, is

1       that a correct recitation? Is there anything that I have  
2       misstated?

3               MS. ENGELMEIER: No, your Honor. I think it is  
4       correct.

5               THE COURT: Mr. Wilczek?

6               MR. WILCZEK: Yes, your Honor, I believe that's  
7       correct. But for clarification, Mr. Gandrud serves as the  
8       Honorary Counsel General for the Honorary Consulate in  
9       Minneapolis. He is a former partner at Faegre Baker and  
10      Daniels.

11              THE COURT: And I think I noted for the record  
12      that Mr. Gandrud's status with your law firm is unclear. I  
13      don't know when he left Faegre Baker Daniels, and for  
14      purposes of this hearing today it's immaterial.

15              Ms. Wemberg, I directed you to appear. Would you  
16      please approach and go to the witness stand.

17              Would you raise your right hand.

18              (Witness Wemberg sworn by the Court)

19              MS. WEMBERG: I do.

20              THE COURT: Very good.

21                                   EXAMINATION

22      BY THE COURT:

23      Q. Ms. Wemberg, identify for the record what your position  
24      is at the Embassy in Washington, DC?

25      A. I'm counselor at the Embassy. I'm head of the

1 administration and counselor affairs.

2 Q. To whom do you report?

3 A. I report to the DCM and the Ambassador.

4 Q. The who?

5 A. DCM is Deputy Chief of Mission.

6 Q. Do you report to the Charge d'Affaires?

7 A. I report to the Ambassador and the Deputy Chief of  
8 Mission.

9 Q. Okay. Now, in front of you -- and your lawyer has put  
10 this document up on the screen -- is a document that you  
11 brought with you to the settlement conference on July 6th,  
12 2012?

13 A. Yes.

14 Q. Before we engaged in settlement discussions I had the  
15 parties for a plenary session in this courtroom and I asked  
16 you whether you had authority on behalf of the Royal Embassy  
17 to settle this case and you represented to me that you did.  
18 I then visited with the Plaintiff for about an hour.

19 A. Yes.

20 Q. You were in my jury room during that time period. When  
21 I visited with you in my jury room, you handed me that piece  
22 of paper. You advised me that that was your authority but  
23 that your authority had been revoked that morning.

24 A. Yes.

25 Q. Is that correct? I didn't ask you anything more than

1 just that. Is that true?

2 A. Yes.

3 Q. And who revoked your authority?

4 A. The Ambassador.

5 Q. When did he revoke your authority?

6 A. The same morning.

7 Q. Before or after you represented to me that you had  
8 authority to settle the case?

9 A. Before.

10 THE COURT: Thank you. That's what the Court  
11 needs to hear.

12 Now, this is an Order to Show Cause and it is --  
13 unless counsel want to further inquire of Ms. Wemberg, this  
14 is a hearing ordering the Embassy to show cause why I should  
15 not sanction it both under the Court's inherent power under  
16 Rule 16 and Rule 37. How would counsel propose we proceed  
17 at this point? Ms. Engelmeier? Plaintiff traditionally  
18 goes first, Mr. Wilczek.

19 MS. ENGELMEIER: Well, your Honor, I frankly think  
20 you've heard the issues that are relevant to the questions  
21 that I thought the Court had with respect to whether  
22 Ms. Wemberg had been honest with the Court. So I'm  
23 inclined -- I wouldn't have any further questions of this  
24 witness given her responses thus far, although I'd have to  
25 note that I'm having a little bit of trouble hearing her.

1 So I would defer to the Court with respect to how to  
2 proceed.

3 THE COURT: Mr. Wilczek.

4 MR. WILCZEK: Your Honor, I'd like to ask some  
5 questions because I think the questions that you asked need  
6 to be more fully flushed out and placed into context  
7 regarding what Ms. Wemberg understood and what Ms. Wemberg  
8 meant when she gave your answers.

9 THE COURT: Proceed.

10 EXAMINATION

11 BY MR. WILCZEK:

12 Q. All right. Ms. Wemberg, when you travelled to  
13 Minneapolis -- well, let me take a step back. As head of  
14 administration at the Embassy, what are your duties?

15 A. I'm responsible for --

16 THE REPORTER: Maybe you need to speak into the  
17 microphone a little closer.

18 THE COURT: And try to, Ms. Wemberg, you speak  
19 softly and you do have a bit of an accent and so in light of  
20 that, please try to speak a little more slowly so that the  
21 court reporter can get what you say down accurately. Thank  
22 you, ma'am.

23 THE WITNESS: Okay. My responsibility there is  
24 administration and counselor affairs. That means budgeting.  
25 It means responsible for all local employees' housing,



1 properties, everything that is -- everything according to  
2 administration.

3 BY MR. WILCZEK:

4 Q. Are you responsible for personnel matters?

5 A. Yes.

6 Q. Do you have authority to enter into contracts on behalf  
7 of the Embassy?

8 A. Yes.

9 Q. You are not a native of the United States, correct? You  
10 were born in Norway?

11 A. Yes.

12 Q. Is English your native language?

13 A. No.

14 Q. Have you, prior to the settlement conference, ever been  
15 involved in the United States courts system at all?

16 A. No.

17 Q. Ever been before a judge or a magistrate?

18 A. No.

19 Q. Ever participated in a settlement conference?

20 A. No.

21 Q. Now, Magistrate Rau pointed out to you the Power of  
22 Attorney which is displayed. When did you find out that you  
23 would have the responsibility for representing Norway at the  
24 settlement conference?

25 A. One and a half week before the settlement conference.

1 Q. And who told you that?

2 A. Mr. Johan Vibe, the DCM at the Embassy.

3 Q. And Mr. Vibe, is he currently the DCM?

4 A. No.

5 Q. What is his current position?

6 A. He is Ambassador, Norwegian Ambassador to Spain.

7 Q. At the time that you were here at the settlement  
8 conference was Mr. Vibe still in the position of DCM at the  
9 Embassy?

10 A. No. No, he had left.

11 Q. At the time that you came to Minneapolis for the  
12 settlement conference, what was your understanding of what  
13 your authority was with regard to the settlement conference?

14 A. That I could settle the case.

15 Q. Did you -- were you given any instructions regarding  
16 what you had to do at the settlement conference?

17 A. No.

18 Q. Was any type of cap placed upon what monetary amount, if  
19 any, you could offer?

20 A. No.

21 Q. Was there any limit placed upon you regarding what you  
22 could or could not do?

23 A. No.

24 Q. And when you came out here, you met with me, correct?

25 A. Yes.

1 Q. And what was the purpose of meeting with me?

2 A. The purpose was to go through the case and find out how  
3 we should proceed with this.

4 Q. And do you recall about how long we met, Ms. Wemberg?

5 A. We had a three-hour meeting the day before.

6 Q. And at the time that the meeting was concluded, had your  
7 view regarding your authority with regard to the settlement  
8 conference changed?

9 A. No.

10 Q. Did you believe that you had the authority to make  
11 decisions in your discretion based upon what you determined  
12 to be in the best interests of Norway?

13 A. Yes.

14 Q. Now, the Judge asked you whether or not your authority  
15 had been revoked.

16 A. Yes.

17 Q. Were you told that you were not allowed to settle the  
18 case?

19 A. No.

20 Q. What were you told? What -- when you responded to the  
21 Magistrate at the settlement conference and said you did not  
22 have authority to settle the case, what were you referring  
23 to?

24 A. The Ambassador told me the same morning that if I  
25 settled the case I had to contact him before.

1 Q. He wanted to be consulted?

2 A. Yes.

3 Q. And as a result of that instruction --

4 A. Yes.

5 Q. -- you felt you didn't have unilateral authority any  
6 longer to settle the case?

7 A. Yes.

8 Q. Did you feel that you were still expected to exercise  
9 your best judgment --

10 A. Yes.

11 Q. -- at the settlement conference?

12 Now, as you may recall, Ms. Wemberg, at the  
13 settlement conference there became a bit of a concern  
14 regarding the extent of your authority?

15 A. Yes.

16 Q. Was anything done to clarify that issue?

17 A. I called the Ambassador.

18 Q. And this was -- I think it was before lunch, correct?

19 A. Yes.

20 Q. And what was your purpose in calling the Ambassador?

21 A. To make sure I had the proper authority to settle the  
22 case.

23 Q. And did the Ambassador tell you that you had authority  
24 to settle the case?

25 A. Yes.

1 Q. Did the Ambassador place any limits on your ability to  
2 exercise discretion in the settlement of the case?

3 A. No.

4 Q. Did he give you any limit on what you could do?

5 A. No.

6 Q. Did he tell you what offer, if any, you should make in  
7 connection with the settlement conference?

8 A. No.

9 Q. Subsequently to this conversation, if you may recall  
10 there was an offer made --

11 A. Yes.

12 Q. -- to settle the case. There was an offer of \$25,000,  
13 correct?

14 A. Yes.

15 Q. Who made the decision?

16 A. I did.

17 Q. To offer \$25,000?

18 A. I made that decision.

19 Q. When you made the offer of \$25,000, did you believe at  
20 that time that was contrary to the opinion of others in the  
21 Embassy regarding what should be done or what should not be  
22 done to settle the case?

23 A. Yes.

24 Q. Why did you decide to do that?

25 A. Because I considered the information I got from the

1 Magistrate the same day and I considered the facts in this  
2 case. I also considered what they meant at the Embassy but  
3 I made my own decision.

4 Q. Now, when you made the offer of \$25,000, was that in  
5 your view your final position that you would take on behalf  
6 of the Embassy with regard to settlement negotiations?

7 A. No.

8 Q. Were you prepared to negotiate further?

9 A. Yes.

10 Q. Were you prepared to give additional consideration to  
11 any facts or arguments made regarding why or why not  
12 settlement would be in the best interests of Norway?

13 A. Yes.

14 Q. Did you make another offer?

15 A. No.

16 Q. Why not?

17 A. The Magistrate came back and told me that I had to go  
18 for 100,000 or more, and I thought that was not the best  
19 interests of Norway.

20 Q. So at the time that the settlement conference ended  
21 because impasse was declared?

22 A. Yes.

23 Q. You had the authority that you understood you had when  
24 you first got on the plane to come to Minneapolis for the  
25 settlement conference, correct?

1 A. Yes.

2 Q. Whose decision -- did anybody else make the decision  
3 regarding the offer that the Embassy made in connection with  
4 the settlement of this case other than you?

5 A. No.

6 MR. WILCZEK: I have nothing further, your Honor.

7 MS. ENGELMEIER: I have a few questions if I may.

8 EXAMINATION

9 BY MS. ENGELMEIER:

10 Q. Ms. Wemberg, and I apologize, it may be that I just  
11 couldn't hear you fully. So can you explain to me again why  
12 you told Magistrate Judge Rau that your settlement authority  
13 had been revoked?

14 A. The same morning the Ambassador told me that if I settle  
15 the case, I need to consult him first.

16 Q. So when we're looking at the exhibit that's in front of  
17 you and on the screen, this document is signed by someone  
18 other than the Ambassador, correct?

19 A. Yes.

20 Q. Why did you need to have this document signed if you  
21 have the authority to make decisions?

22 A. This document is signed by Lars Petter Henie. He was  
23 Charge d'Affaires. The Ambassador was in Norway at that  
24 time.

25 Q. Once, again, you've testified today that you were the

1 person who had the authority to make the decisions with  
2 respect to settlement?

3 A. Yes.

4 Q. What I'm trying to understand is if that was the case,  
5 then why would you need a signed document from the  
6 Ambassador or from the Charge d'Affaires who is in place of  
7 the Ambassador? Why would you need that if you were the one  
8 that had the authority?

9 A. The Ambassador told me that I should have this document  
10 with me when I came up here.

11 Q. And so the sum total of what the Ambassador -- so you  
12 said the Ambassador was out of town?

13 A. Yes.

14 Q. And he called you from out of town to tell you that even  
15 though you had the authority to make decisions, he wanted to  
16 hear from you?

17 A. Yes.

18 Q. That's the sum total of that discussion?

19 A. Yes, he told me that I should consult him.

20 Q. Anything else that was said in that discussion?

21 A. No.

22 Q. Directing your attention to the document in front of  
23 you. This is the order that caused you to appear here today  
24 and you'll see in the indented part the document provides --  
25 it's quoting from an earlier order that asked the Embassy's



1 representatives to come to the pretrial settlement  
2 conference on July 6th. Did you see that order?

3 A. Yes.

4 Q. And did you see the part that's in bold on this document  
5 that reads that: "This means that each party must attend  
6 through a person who has the power to change that party's  
7 settlement posture during the course of the conference."

8 Did you see that before you came that day?

9 A. I seen the document before I came.

10 Q. And did you understand that you were the person who had  
11 that power?

12 A. Yes.

13 Q. But only if you consulted with the Ambassador first; is  
14 that right?

15 A. I got the message the same morning that I should consult  
16 him first, yes.

17 Q. And when you ultimately did reach out to the Ambassador  
18 after Magistrate Judge Rau expressed his concern about your  
19 statement that the authority granted in the June 29th  
20 document had been revoked, the Ambassador was difficult to  
21 reach; isn't that correct? It took you some time?

22 A. No, he was easy to reach.

23 Q. Even though he was out of town?

24 A. Yes.

25 Q. Okay. Now, the other question I have, so the -- my

1 recollection is on the morning when we were all in this  
2 courtroom on the 6th, Magistrate Judge Rau asked you, "Do  
3 you have full authority to resolve this matter without any  
4 caps?" And you said, "Yes, I do." Do you remember that?

5 A. Yes.

6 Q. I believe he also asked you, "Is it just you?" Do you  
7 recall that question?

8 A. I don't remember. Probably.

9 Q. And do you recall also saying yes, it was just you?

10 MR. WILCZEK: Objection. Assumes facts not in  
11 evidence. She didn't recall the question.

12 MS. ENGELMEIER: I believe she also said, your  
13 Honor, that she may --

14 THE COURT: The objection is overruled. You may  
15 answer.

16 BY MS. ENGELMEIER:

17 Q. Do you consider yourself as a representative of the  
18 Embassy somebody who is obliged to follow this Court's  
19 order?

20 A. Yes.

21 Q. And would that be true as well should at some point this  
22 court order a payment to be made by the Embassy and the  
23 Norwegian Foreign Ministry?

24 A. Yes.

25 Q. Let me tell you why I ask that question. Is there a

1 Deputy Minister in the Foreign Ministry -- which you're  
2 technically a part of, correct?

3 A. Yes.

4 Q. Is there a Deputy in the Foreign Ministry by the name of  
5 Forde -- I may be saying it wrong -- Anderson?

6 A. Forde Andersen.

7 Q. F-O-R-D-E, O period, Andersen, A-N-D-E-R-S-E-N; a Deputy  
8 Minister?

9 A. Yes.

10 Q. And that's a person who speaks with authority for the  
11 Norwegian Foreign Ministry, correct?

12 A. Yes.

13 Q. And do you know that he has publicly said that the  
14 Norwegian Foreign Ministry is reserving the right to not pay  
15 any ordered amounts due by this court?

16 A. No.

17 Q. Did you see an article in the -- can you read that from  
18 where you are?

19 A. Yes.

20 Q. An article in a newspaper on August 18 in Norway. I  
21 presume you read Norwegian?

22 A. Yes.

23 Q. And you see in the second column there that the Deputy  
24 Minister of the Norwegian Foreign Ministry is stating -- is  
25 talking about sovereign immunity?

1 A. Yes.

2 Q. And do you see that he says something to the equivalent  
3 of we have agreed to waive our objection to the first kind  
4 of sovereign immunity allowing us to be heard in a United  
5 States court, but we are reserving our right to assert our  
6 sovereign immunity so as not to have any judgment by the  
7 court enforced. Do you read that the same way that I do?  
8 It's in the second column there on the bottom and then the  
9 top of the third column.

10 MR. WILCZEK: Is there a date on that article?

11 MS. ENGELMEIER: August 18th, as I said before.

12 THE COURT: August 18th, 2012?

13 MS. ENGELMEIER: Correct.

14 THE WITNESS: It's difficult to read it from here.

15 MS. ENGELMEIER: It's difficult to read it?

16 THE WITNESS: Yes.

17 THE COURT: Why don't you give her the original.

18 MS. ENGELMEIER: I certainly can.

19 If I may just briefly address the witness from  
20 here?

21 THE COURT: You may.

22 BY MS. ENGELMEIER:

23 Q. So where I thought it said what I just said, which is  
24 that we reserve the right to assert sovereign immunity to  
25 not follow any judgment of the court, was kind of the bottom

1 here and on the top here.

2 (Pause in proceedings)

3 THE COURT: Ms. Engelmeier, perhaps you should  
4 restate the question now that the witness has had a chance  
5 to review the document.

6 MS. ENGELMEIER: Thank you very much, your Honor.

7 BY MS. ENGELMEIER:

8 Q. Do you think I fairly characterized what he said there?

9 A. Yes.

10 Q. Okay. And so what I'm wondering is have you ever had  
11 any discussions with Deputy Minister Andersen or the  
12 Ambassador or anyone else regarding the intention of Norway,  
13 I'm just saying Norway instead of the Embassy or the  
14 Norwegian Foreign Ministry because you've said in Norway's  
15 best interest, so using your shorthand term of Norway, did  
16 you have any discussions with anyone prior to the settlement  
17 conference that suggested Norway would not follow this  
18 court's, meaning this court in the United States, judgment  
19 with respect to the Ewald case?

20 A. No.

21 Q. Has anyone ever told you that Norway had no intention of  
22 paying any judgments by this court?

23 A. No.

24 Q. Did that -- the issue of whether Norway was going to pay  
25 judgments impact your position on settlement at all?

1 A. Can you repeat that?

2 Q. Sure. I'm sorry. If you're not understanding me, feel  
3 free to ask me to rephrase.

4 So you said that on the date of the settlement  
5 conference you decided not to make any further offers when  
6 the Judge asked you to make an offer of \$100,000 or more --

7 THE COURT: Well, let's -- the Judge does not  
8 concede that that's what the Judge asked.

9 MS. ENGELMEIER: Oh, I apologize.

10 THE COURT: That's all right. Simply because  
11 Mr. Wilczek states that the Judge said that doesn't mean  
12 that the Judge in fact said that or that's what the Judge's  
13 notes said.

14 MS. ENGELMEIER: Okay. I apologize, your Honor.

15 THE COURT: That's all right. I want the record  
16 to be clear that the Judge isn't conceding that since it's  
17 apparent that Mr. Wilczek's intent in this hearing is to put  
18 the Judge on trial rather than his client.

19 Proceed. Thank you.

20 BY MS. ENGELMEIER:

21 Q. Ms. Wemberg, what I'm trying to understand is you made a  
22 decision not to offer \$100,000 at some point during that  
23 hearing. Is that correct?

24 A. Yes.

25 Q. And did -- in making that decision, were you considering

1 the fact that perhaps Norway wouldn't have to follow the  
2 order of a United States court?

3 A. No.

4 MS. ENGELMEIER: I have nothing further.

5 THE COURT: Thank you.

6 Do you have anything further, Mr. Wilczek?

7 MR. WILCZEK: I do, your Honor. Thank you.

8 RE-EXAMINATION

9 BY MR. WILCZEK:

10 Q. Ms. Wemberg, when you were here making offers, an offer,  
11 I should say, to settle the case, would, based on your  
12 understanding, Norway have stood by you in terms of your  
13 commitment to offer to pay money to settle the case?

14 A. Yes.

15 Q. I want to go back to the statement regarding how the  
16 mediation or the settlement conference ended. What was your  
17 understanding of what you were being told regarding what you  
18 needed to agree to for the settlement conference to  
19 continue?

20 A. Can you repeat?

21 Q. Yeah. What did you understand that you would need to  
22 agree to for the settlement conference to continue at the  
23 time that impasse was declared? Do you recall the reference  
24 to six figures?

25 A. Yes.

1 Q. What was said in that regard?

2 A. It would not be a settlement unless I give an offer of  
3 six figure or more.

4 MR. WILCZEK: I have nothing further.

5 MS. ENGELMEIER: I have nothing further, your  
6 Honor.

7 THE COURT: Very good. Does counsel want to be  
8 heard with respect to the legal issues?

9 MS. ENGELMEIER: Your Honor, I'm happy to repeat  
10 what I said previously if the Court is so inclined. But I  
11 think we made our position clear that there was a failure to  
12 follow the Court's order and that requires a sanction.

13 THE COURT: Thank you.

14 Mr. Wilczek.

15 MR. WILCZEK: Thank you, your Honor. When  
16 Ms. Wemberg came to Minneapolis she understood that she had  
17 authority to exercise her judgment regarding what was in the  
18 best interests of Norway in the settlement conference. At  
19 the time that she got the message from Mr. -- Ambassador  
20 Strommen that she needed to consult with him before she  
21 reached a settlement, her authority wasn't revoked. She was  
22 asked to consult with him before she made a decision.

23 Now, thereafter your Honor expressed concern about  
24 whether or not in fact she had authority and you suggested  
25 that we clarify that issue, and we did. We called the



1 Ambassador, spoke to the Ambassador. The Ambassador  
2 clarified that she had authority. He did not place any  
3 limits on her authority. He didn't put any cap on what she  
4 could do. The decision that she made after that point was  
5 her decision and her decision alone. She acted contrary to  
6 what she understood some in the Embassy didn't want her to  
7 do, but she was willing to make that decision because she  
8 thought it was in the best interests of Norway.

9 So at the end of the day -- although there was  
10 some confusion, I acknowledge -- at the end of the day she  
11 had exactly what the Court ordered. She had authority to  
12 determine Norway's position. She had authority to determine  
13 what she wanted to do without any cap, without any limit.  
14 We complied with the order when she came. There was some  
15 confusion regarding how she interpreted the Ambassador's  
16 statement that she consult with him, but at the end of the  
17 day there was no doubt. And there is no question she had  
18 the authority to determine Norway's position and there  
19 weren't any -- there was no limits, there were no limits  
20 placed on what she could do in that regard. Thank you.

21 THE COURT: Thank you.

22 The Court will be issuing an order shortly in  
23 connection with this matter. I will make the following  
24 observation, though, for the benefit of counsel.

25 First, the conduct of this litigation does not

1       comport with the spirit or the requirements of Rule 1 of the  
2       Federal Rules of Civil Procedure. The case is more than a  
3       year old and there's been nothing but seriatim motion  
4       practice to avoid any substantive discussion of the case on  
5       the merits.

6               Second, given what the Court has heard today, I  
7       would be hard pressed to believe that Ms. Wemberg had any  
8       authority because her authority was a moving target  
9       throughout the day.

10              Third, given what has been submitted to the Court  
11       in connection with the official position of Norway  
12       subsequent to that settlement hearing, a great deal of doubt  
13       is cast on Ms. Wemberg's authority also.

14              We are now in recess.

15              (Court adjourned at 11:08 a.m.)

16                              \*       \*       \*

17  
18  
19              I, Carla R. Bebault, certify that the foregoing is  
20       a correct transcript from the record of proceedings in the  
21       above-entitled matter.

22  
23                              Certified by: s/Carla R. Bebault  
24    Carla Bebault, RMR, CRR, FCRR  
25